IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE EIGHTEENTH DAY OF JANUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE L.NARASIMHA REDDY

WRIT PETITION NO : 23841 of 2004

Between:

1 M/s.Sri Venkata Durda Rice Corp rep by Proprietor:Gurram Subba Rao
9-3-3-,Brahmin Street, Vijayawada.
2 M/s.Bhaskara Rice Traders rep by its Proprietor Mr.K.Parthasarathi
9-3-160,Brahmin Street, Viajaywada Dist.
3 M/s.Marturi Anjaneyulu Sons, rep by its Partner Mr.M.Subrahmanyeswara Rao
9-76-58, K.T.Road,
Vijayawada.
4 M/s.Sri Bhavani Traders rep by its Proprietor,Mr.P.Subba Rao
11-42-23,Ramgopal Street, Vijayawada.
5 M/s.Venkata Srinivasa Rice Company rep by its Proprietor Mr.S.Subba Rao
27-21-52,Kaleswara Rao Road, Governorpet, Vijayawada.
6 M/s.Vijaya Lakshmi Rice Company rep by its Proprietor Mr.K.Kesava Rao
29-9-33,Govindarajulu Naidu Street, Suryaraopet,Vijayawada.
7 M/s.Lakshmi Srinivasa Rice Company rep by its Proprietor Mr.S.V.Srinivasa Rao
30-14-15,K.S.R.Road, Dulgu Agraharam, Vijayawada.
8 M/s. Sri Lakshmi Venkateswara Rice Traders, rep by its Proprietor Mr.N.R.K.Murhty
29-26-57,Jadagamvari Street, Suryaraopet,
Vijayawada.
9 M/s.Varada Apparao Sons, ep by its Partner Mr.Varada Kishore
11-25-51,Main Road, Vinnakotavari Chowk,
Vijayawada.
10 M/s.Gade Bali Reddy Rice Company rep by its Proprietor Mr.Gade Bali Reddy
9-6-84,Ganapathirao Road, Kothapet,Vijayawada.
11 M/s.Vasavi Rice&General Merchants rep by its Proprietor Mr.S.V.S.Rama Krishna
4-1-83,Near Cholera Hospital, K.T.Road, Chittinagar,
Vijayawada.
12 M/sAnnapurna Rice &General Stores rep by its Proprietor Mr.M.Rama

Krishna Rao
23-22-12/A,Satyanarayanapuram, Vijayawada

13 M/s.Sri Anjanadevi Rice Company rep by its Proprietor Mr.J.G.K.Murhty
23-11-77,N.R.P.Road, Satyanarayanapuram,
Vijayawada.

14 M/s.Sri Vijaya Rice Company rep by its proprietor Mr.Potti Nageswara Rao
27-14-33,Rajagopalachary Street, Governorpet,
Vijayawada.

15 M/s.Sri.Bhramaramba Rice Stores, rep by its Proprietor Mr.Araveti Durga Prasad
24-14-57,Kundetivari Street, Durgapuram,
Vijayawada.

16 M/s.Sri Satyanarayana Rice Traders, rep by it Proprietor Mr.Katakam Ram Mohan Rao
26-3-95,NRP Road, Gandhinagar,
Vijayawada.

17 M/s.Sai Chandra Traders rep by its Managing Parter Mr.N.V.Someswara Rao
71-1-10-B, Bandar Road,
Patamata, Vijayawada.

18 M/s.Prasad Rice Traders rep by its Proprietor Mr.K.V.S.D.Prasad
Suryaraopet, Vijayawada.

19 M/s.Atmakuri Durga Prasad rep by its Proprietor Mr.Atmakuri Gurga Prasad
24-14-62-A,Durgapuram, Vijayawada.

..... PETITIONER(S)

AND

1 Special Grade Secretary Agricultural Market Committee
Gollapudi, Viajayawada.

2 Commissioner and Director of Marketing Govtr of Andhra Pradesh
B.R.K.R.Bhavan, Hyderabad.

.....RESPONDENT(S)

Petition filed under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ or order or direction more particularly one in the nature writ of mandamus declaring the action of the respondents in insisting for payment of Market Fee form the petitioners who are conducting second sales in Rice under the threat of prosecution by refusing to receive the returns is wholly illegal, arbitrary and violative of Sec.17 (2) of A.P.General Sales Tax Act R/w Sec.12(a) of Agricultural Market Committees Act and consequently declare that the respondents have no power or jurisdiction to insist for payment of market fee by the petitioners/Second Sellers of Rice under the threat of prosecution and pass such other order or orders.

Counsel for the Petitioners:MR.J.U.M.V.PRASAD

Counsel for the Respondent No.1:Mr.K.Madhava Reddy

Counsel for the Respondent No.2: GP FOR AGRICULTURE

The Court at the stage of admission made the following :

ORDER:

The petitioners are traders in rice. In this writ petition, their grievance is two-fold. According to them, no market fee is payable on the rice, dealt with by them, inasmuch as the paddy, out of which the rice is manufactured, has already suffered market fee. The second grievance is that, the respective market committees are not receiving returns, when filed by them. They seek appropriate directions in this regard.

Heard the learned counsel for the petitioners and learned Standing Counsel for the Market Committee.

So far as the first grievance of the petitioners is concerned, the matter is no longer *res integra*. A Division Bench of this Court in W.P.No.51530 of 2003 and batch, held that market fee is payable on the rice, as an independent product, irrespective of the fact whether the market fee was levied on the corresponding paddy. Therefore, the petitioners cannot be extended any relief in that regard.

As regards the second grievance, it is essential that the respective market committees cannot refuse to accept the returns, in case the returns are found to be defective, in any manner. They are under obligation to pass orders, indicating the reasons.

Hence, the writ petition is disposed of, rejecting the relief of declaration, as regards the right of the market committees, to levy the market fee on rice, but directing the respective market committees shall receive the returns, that may be submitted by the petitioner; leaving it open to them to pass orders, in case the returns cannot be received for any reason. There shall be no order as to costs.

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L. NARASIMHA REDDY, J.

Dt.18-01-2005

Note:

Office to issue

c.c. in two days.

(B/O) KO

To

1. Special Grade Secretary Agricultural Market Committee,
   Gollapudi, Viajayawada.
2 Commissioner and Director of Marketing, Government of Andhra Pradesh
   B.R.K.R.Bhavan, Hyderabad.

3. 2CD copies.

4 2 CCs to G.P. for Agriculture, HighCourt Buildings, Hyderabad (OUT).

THE HON'BLE MR JUSTICE L.NARASIMHA REDDY

WRIT PETITION NO : 23841 of 2004

Dated 18-01-2004